

## CALLING FOR A MORATORIUM ON DEATH PENALTY

A CONVERSATION WITH SERGIO D'ELIA

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Sergio D'Elia is an Italian Radical Member of Parliament, and currently the Secretary General of Hands Off Cain, an international league of citizens and Members of Parliament for a universal moratorium on capital executions, supported by political and cultural personalities at an international level. He founded the league in 1993 together with his partner Mariateresa Di Lascia.

Under his secretaryship, Hands Off Cain has promoted initiatives on emblematic cases, the international marches to St. Peter's Church (Rome, Italy) in 1994, 1995 and 1998, the international conferences in Tunis, Moscow, New York and Geneva. In 1994 he promoted the submission, for the first time, to the General Assembly of the United Nations, of the resolution on the moratorium of executions, which was debated and beaten by a few votes. From 1997 to 2003, he has promoted the submission of the resolution for the moratorium on executions to the Commission for human rights of the United Nations in Geneva, which has approved it in all sessions.

Sergio D'Elia has made visits to death rows in the United States, in the Democratic Republic of Congo and in Kenya. His speeches, actions and interviews have been published by leading Italian and foreign newspapers. As part of his lobbying activity he has promoted and taken part in missions of the Italian Senate and Chamber of Deputies to countries enforcing the death penalty: the Philippines, El Salvador, Guatemala, Cuba, the Caribbean, Kirghizistan, Uzbekistan, Nigeria, the Democratic Republic of Congo, Kenya and Zambia. He has taken part in international forums on the question of the death penalty and has promoted meetings and debates in Italy, also on the more general theme of prisons and punishment, in particular on the situation of "hard prisons". He is currently co-ordinating the international campaign for approval of the resolution for the moratorium of executions on the part of the UN General Assembly.

**T**HE RESOLUTION CALLING FOR A GLOBAL MORATORIUM on executions has been introduced at the 62nd UN General Assembly (UNGA) in October 2007. Proponents expect that it will face opposition from countries such as China and the US who still implement the death penalty. The important EU group is supporting the draft but, as always at the UN, much will depend on the attitude of the most numerous Non-Aligned group, and still there is no uniform view among its members. What are the chances of it getting passed?

United States and China will not establish a counter lobby because in the drafted text only a moratorium – not the abolition – is mentioned. American public opinion is 58 percent in favour of a moratorium. Even China could possibly adopt the moratorium, due to the international pressure in view of the Olympic Games in 2008 and some recent internal directives which limit the number of executions. Regarding the non-Aligned nations, the assent of their leader country, South Africa, to the regional alliance pro-moratorium may encourage other supports from this group of countries.

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“The abolition of the death penalty contributes to the reinforcement of human dignity and the development of human rights.”

Normally, drafts like this once being presented are sent back to national capitals where they are examined, possible amendments prepared, after which serious negotiations begin. Even though in principle one may expect some watering down of the resolution, what bargaining ground, if any, would be acceptable to proponents?

The co-sponsor nations of the Resolution intend to sustain it in its entirety and to the end. There is a precise commitment asked to a nation at the moment of signing the Resolution: to vote against any kind of amendment. If this co-sponsor block succeeds, all amendments will be rejected, including the most dangerous one from Egypt and Singapore about the 'National Sovereignty', based on a constitutional principle of the United Nations Charter which is upheld similarly in terms of statutory law and thus no resolution of the UN General Assembly could

ever abrogate. Anyway, the proposed Resolution relates to a moratorium on executions and not to an out-right abolition of the death penalty. It is already a compromise between supporters of abolition and supporters of maintaining it.

*If approved, what will be the effect of a UN-backed resolution? Being the UNGA not legally binding, will it make a difference for those countries still implementing the death penalty and persuade them to abolish it?*

That is true, the UN General Assembly has no power to impose the moratorium on its member States, but the Resolution would have an extraordinary moral and political value, which might affect the policies of those countries who still practice the death penalty. The sole announcement of the presentation of the Resolution at the UN Headquarters made three African states (Gabon, Burundi and Mali) decide to announce the imminent abolition of the death penalty, thus conforming to standards which are regarded as ever increasing on the international arena. The moratorium on executions is the leading way to arrive at the abolition of the death penalty. It is an historical fact: all the former USSR states arrived at the abolition through the moratorium, and the same holds for South Africa and Philippines.

*Assuming the resolution is adopted, what should be done next?*

The Resolution, as explicitly foreseen in its last provision, shall be presented once more at the next General Assembly, in order to reinforce and consolidate the UN's position. Then it will be necessary to spread it

worldwide and monitor the situation within individual states and to make pressure on countries that maintain the penalty, that they may adopt the indication from the UN.

*Why does the issue come up now?*

It doesn't come out of the blue. This is the result of thirteen-years of work by *Nessuno tocchi Caino* [Hands Off Cain] along with the Italian Radical Party, and the political non-violent campaign they have put forward, particularly during the last year. It has been an excellent campaign for the complexity and the synergy of instruments, forms, fronts and pressure groups that we have involved for our political struggle. First of all, at parliament level, three resolutions have been unanimously approved by the Italian Chamber of Deputies and three others approved with large majority by the European Parliament, the latter committing the governments to submit the Moratorium

at the UN Headquarters. Then, dozens of letters have been sent to the governments of the European Union and its Presidency in charge, in order to denounce mistakes and delays, and to remind them the obligations taken in front of their own parliaments. Moreover thousands of subscriptions have been received from 158 countries to appeal for the Global Moratorium, including those from 55 Nobel Prize Winners. Finally, we remind of Marco Pannella's thirst strike against the execution of Saddam Hussein, subsequently converted to the more general scope of the Moratorium, and the two long hunger strikes of leaders and activists of the Radical Party, who kept the fast for 89 days in the last six months.

*More and more countries are abolishing the death penalty. What are the reasons/motivations for this? And what are the factors contributing to this widespread call for abolition?*

The increasing awareness that the death penalty is a human rights issue and not limited to penal justice. From

1997 to 2005, for nine consecutive years, the former UN Commission on Human Rights, now the Human Rights Council, constantly approved a resolution stating that «the abolition of the death penalty contributes to the reinforcement of human dignity and the development of human rights», thereby calling for «a moratorium on executions, in view of the complete abolition of the death penalty itself». Moreover, in the last 14 years as many as 48 countries decided to abolish the penalty, either by law or by practice. In those countries, this evolution was frequently

accompanied by the advent of democracy, the settlement of a state of law, the promotion and the respect of political rights and civil freedom.

*Should there be a worldwide campaign against death penalty, for instance like the Ottawa process to ban land-mines?*

The campaign has been in progress for at least 14 years, and has been structured at both national and international level. It gained momentum in 1994, when, for the first time, a resolution was submitted to the UN General Assembly by the Italian government. It was rejected by only eight votes, but it had its ripple effect: since then the involvement of the abolitionist movement has grown and also with visible outcomes worldwide.

*Why are some countries still using the death penalty? What are their reasons and motivations for retaining it? Who are the*



Lethal Injection Chamber

*influential players behind the decision to retain the death penalty in those countries?*

In general, in authoritarian countries the death penalty is used for political repression and social control. Particularly in the Muslim countries the death penalty is regarded as mandatory due to a strict interpretation of the Sharia. However the problem is not the Koran itself, since not all Islamic countries apply the death penalty, and not all of them use the Koran as a penal or civil code, or as a fundamental act. The problem is rather the literal translation of that ancient text into norms, prescriptions and punishments applied nowadays by fundamentalist, dictatorial or authoritarian regimes in order to prevent any democratic process. In liberal democratic countries like the United States, where by the way not all States practice the death penalty, the reference to the Old Testament and to the «eye for an eye» logic is still very strong. That simple and primordial rule was the principle of law in the small and solitary world of the pioneers. In the United States the death penalty is used for political and electoral gains, especially during the run-up to the Presidency.

*Which countries are passing and carrying out most of the death sentences?*

98.8 percent of executions worldwide have occurred in dictatorial, authoritarian or illiberal countries, for an amount of at least 5,564 executions in 2006. China alone has carried out at least 5,000 executions, which represents 89 percent of the total worldwide. Iran has processed at least 215 executions; Pakistan 82; Iraq at least 65; Sudan at least 65, Saudi Arabia 39; Yemen 30; Vietnam at least 14; Kuwait at least 11; Somalia at least 7; Singapore at least 5; Egypt, Bangladesh Jordan, and Malaysia at least 4; Bahrain, North Korea and Byelorussia at least 3; Syria and Uganda at least 2; at least one execution has been recorded un the Arab Emirates and Equatorial Guinea. Unfortunately, since many countries do

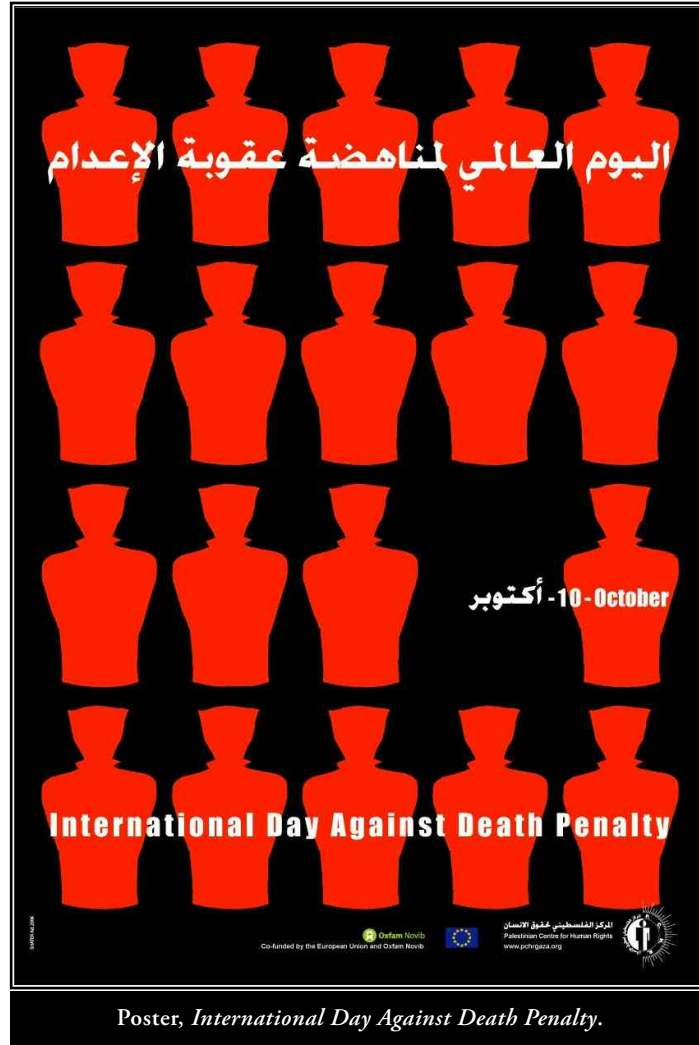
not provide official data about the death penalty, the number of executions could actually be much larger.

*In those countries where the death penalty is still retained and who might and will continue to retain it even after a UN resolution is passed, what can be done to persuade or convince them to change their stand and sway towards the abolition?*

At a closer look, the ultimate solution for these countries concern the struggle for democracy, freedom and promotion of human rights, rather than the direct fight against the death penalty.

*Should there be an NGO campaign against death Penalty? How can one mobilize world public opinion?*

As said before, the campaign of *Nessuno tocchi Caino* has been an excellent example of the complexity and the synergy of instruments (first of all, communication), forms of fight (non-violence, thirst and hunger strikes), fronts (the parliament front was fundamental) and pressure groups (e.g. Nobel Prize Winners) that we have involved in our struggle against the death penalty. It might be adopted by other abolitionist organisations at national level, in order to promote the adoption of the Moratorium, in view of the abolition.



Poster, *International Day Against Death Penalty*.

*How to promote the culture of punishment without death sentence?*

In front of the most cruel crimes, the legitimate interest of the victims for the punishment of the criminals shall be protected. But the fight against the impunity cannot be solved by means of the death penalty. The real deterrent is not the severity of the penalty, but the certainty that the criminals will be responsible for their actions before a court. Bearing that in mind, the international community has instituted ad-hoc tribunals for the cases of the former Yugoslavia, Rwanda and Sierra Leone. In these tribunals the use of the death penalty is excluded, exactly like in the International Criminal Court which has a global jurisdiction.

The ratification of the Court's statute might be the main deterrent for the dictatorial regimes. Rwanda, with its recent abolition of the death penalty, clearly shows that the absurd cycle of revenge can be halted and the scope of justice and legality can be achieved without recourse to the ultimate penalty.

*Why is the death penalty bad? Is it effective?*

The deterrent effect of the death penalty has never been demonstrated, since it is scientifically impossible. On the other hand, neither the contrary has been demonstrated. In my opinion the sole serious and fundamental argument against the death penalty is the following: it is a non-human and degrading punishment not only for the one receiving it, but also for whom has to carry it out. The death penalty concerns our deepest values, the quality of our State or Community and shapes our future civilisation and humanity. ■



Andy Warhol (1928-'87), from the series *Electric Chairs*, (1964).  
Photo courtesy of the Warhol Museum, Michener Art Museum.